

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI**

TYLER PIERCE,)	
)	
Plaintiff,)	
)	Cause No.: 4:22-cv-728
vs.)	
)	
VROOM, INC.,)	
)	
Defendant.)	

NOTICE OF REMOVAL

Defendant, Vroom, Inc. (“Vroom”), files this Notice of Removal pursuant to 28 U.S.C. §§ 1331, 1332, 1441, and 1446, and in support hereof states:

Nature of the Action

1. The removed case is a civil action filed on May 18, 2022, in the Circuit Court of the City of St. Louis, Missouri, styled *Tyler Pierce vs. Vroom, Inc.*, cause number 2222-AC05286 (the “State Court Action”).

2. The State Court Action involves claims made by Tyler Pierce (“Pierce”) against Vroom seeking damages under the Missouri Merchandising Practices Act, the Magnuson–Moss Warranty Act, and violation of R.S. Mo § 484.010.

This Removal is Timely

3. Vroom received Pierce’s Petition in the State Court Action on June 10, 2022.

4. This Notice of Removal is timely pursuant to 28 U.S.C. §1446(b) as it is filed within 30 days after the receipt by Vroom of a copy of the initial pleading setting forth the claim for relief upon which this action is based.

Venue is Proper

5. Venue in the Eastern District of Missouri, Eastern Division, is proper under 28 U.S.C. §1441(a), because this Court is the United States District Court for the district and division embracing the place where the state court action is pending.

This Court Has Jurisdiction Under 28 U.S.C. § 1332

6. The United States District Court for the Eastern District of Missouri has diversity jurisdiction over this matter pursuant to 28 U.S.C. § 1332 because this is a civil action in which the amount in controversy exceeds the sum of \$75,000, exclusive of costs and interest, and is between citizens of different states.

7. Pierce is an adult individual and citizen of the state of Missouri.

8. Vroom is a corporation incorporated in the state of Delaware and has its principal place of business in New York. Vroom is therefore a citizen of the states of Delaware and New York. Vroom is not a citizen of the state of Missouri.

9. Pierce's Petition in the State Court Action does not expressly allege a total amount of damages. Instead, Pierce's claim in this lawsuit is for damages consisting of the full purchase price of the vehicle at issue, collateral charges, finance charges, incidental and consequential damages, expert witness fees and actual damages. Further, Pierce seeks attorney's fees in each of the three counts in his petition. A claim for attorney's fees may be considered in determining whether the requisite amount in controversy is met. *See Capitol Indemnity Corporation v. Miles*, 978 F.2d 437, 438 (8th Cir. 1992). Upon information and belief, the amount in controversy therefore exceeds \$75,000, exclusive of interest and costs. *See e.g. Peel v. Credit Acceptance Corporation*, 408 S.W.3d 191, 213 (court awards \$165,350 in attorneys' fees in MMPA claim filed by consumer against automobile finance company).

This Court Has Jurisdiction Under 28 U.S.C. § 1331

10. Pierce alleges violations of a federal statute and raises federal questions in his Petition.

11. Under 28 U.S.C. § 1331, “[t]he district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.” 28 U.S.C. § 1331; *Merrell Dow Pharmaceuticals, Inc. v. Thompson*, 478 U.S. 804 (1986). “[T]he question whether a claim ‘arises under’ federal law must be determined by reference to the ‘well-pleaded complaint.’ [*Franchise Tax Board v. Construction Laborers Vacation Trust*, 463 U.S. 1, 9-10 (1983)].... The ‘vast majority’ of cases that come within this grant of jurisdiction are covered by Justice Holmes’ statement that a “‘suit arises under the law that creates the cause of action.’” *Id.*, at 8-9, quoting *American Well Works Co. v. Layne & Bowler Co.*, 241 U.S. 257, 260 (1916).” *Merrell Dow*, 478 U.S. at 808.

12. Pierce’s Petition alleges violations of federal law, namely the Magnuson–Moss Warranty Act, 15 U.S.C. §§ 2301-2312.

13. While the Magnuson-Moss Warranty Act itself provides that the amount in controversy must exceed \$50,000 for federal jurisdiction to attach, Pierce’s Petition in state court alleges damages that, upon information and belief, exceed that jurisdictional limit.

14. Specifically, Pierce’s Petition alleges damages consisting of the full purchase price of the vehicle, collateral charges, finance charges, incidental and consequential damages, expert witness fees, actual damages, and attorney’s fees.

15. Thus, this Court has federal question jurisdiction under Section 1331, and this case is removable pursuant to 28 U.S.C. §1441(a) as a civil action brought in the state court but over which this federal district court has original jurisdiction.

State Court Proceeding

16. Pursuant to Rule 2.03 of the Local Rules of the United States District Court for the Eastern District of Missouri, a copy of all process, pleadings, orders and other documents on file in the state court, together with a copy of the state court's docket sheet, are attached hereto.

Notice of Filing

17. A Notice of Filing of this Notice of Removal was filed with the Clerk of the Circuit Court of the City St. Louis, Missouri and served on the Plaintiff, through counsel.

18. This Notice of Removal is made pursuant to Rule 11 of the Federal Rules of Civil Procedure.

19. Defendant demands trial by jury.

WHEREFORE, Defendant, Vroom, Inc., respectfully requests that this action now pending in the Circuit Court of the City of St. Louis, Missouri be removed to the United States District Court for the Eastern District of Missouri, that this Court accept jurisdiction of this action, and that this action be placed upon the docket of this Court for further proceedings as though this action were originally filed in this Court.

Respectfully submitted,

GALLOWAY, JOHNSON, TOMPKINS,
BURR & SMITH, A PLC

/s/ Stephen J. Moore

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